

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	2:19cr60-MHT
)	(WO)
LATRELL VONTAE CHISM)	

OPINION AND ORDER

This case is before the court on the second motion to continue filed by defendant Latrell Vontae Chism. For the reasons set forth below, the court finds that jury trial, now set for November 18, 2019, should be continued pursuant to 18 U.S.C. § 3161(h).

While the granting of a continuance is left to the sound discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or

indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would be likely to ... result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Chism in a speedy trial.

Chism represents that he submitted a request for pretrial diversion to the United States Attorney on October 3, 2019, and was informed that the trial date of November 18, 2019 may not provide enough time for consideration of his request. A continuance is warranted so that Chism's attorney may pursue the option of pretrial diversion and so that the government's attorney may finalize its decision on the request. Also, the government does not oppose a continuance.

Accordingly, it is ORDERED as follows:

(1) The motion to continue (doc. no. 26), filed by defendant Latrell Vontae Chism, is granted.

(2) The jury selection and trial for defendant Chism, now set for November 18, 2019, are reset for January 6, 2020 at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

The United States Magistrate Judge shall conduct a pretrial conference prior to the January 6, 2020, trial term.

DONE, this the 31st day of October, 2019.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE